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Intellectual Property and Technology Law Dept.
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EXAMINER

MURDOUGH, JOSHUA A

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3621

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/736,077	Applicant(s) PINTSOV ET AL.	
	Examiner JOSHUA MURDOUGH	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) 21-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendments filed 1 July 2008.
2. Claims 1-5, 7-16, and 18-26 are currently pending.
3. Claims 21-26 are withdrawn.
4. Claims 1-5, 7-16, and 18-20 have been examined.

Drawings

5. The amendment filed 1 July 2008 is objected to under 35 U.S.C. §132(a) because it introduces new matter into the disclosure. 35 U.S.C. §132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figure 3A. The results of filtering, as shown, were not necessarily present given the previous disclosure. For example, the simulated defects could have been smearing, water damage, or creasing.

Applicant is required to cancel the new matter in the reply to this Office Action.

6. The drawings are objected to as failing to comply with 37 C.F.R. §1.84(p)(4) because reference character “50” has been used to designate both the pristine image in Figure 3A and a curve accounting for the spacing of the letters in Figure 5. Corrected drawing sheets in compliance with 37 C.F.R. §1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in

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the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 C.F.R. §1.121(d).

If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 C.F.R. §1.84(p)(4) because reference character "51" has been used to designate both the filtered image in Figure 3A and a segment in Figure 5. Corrected drawing sheets in compliance with 37 C.F.R. §1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 C.F.R. §1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to as failing to comply with 37 C.F.R. §1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "41."

Corrected drawing sheets in compliance with 37 C.F.R. §1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 C.F.R. §1.121(d). If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

9. The amendment filed 1 July 2008 is objected to under 35 U.S.C. §132(a) because it introduces new matter into the disclosure. 35 U.S.C. §132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

- a. “In other words the robustness...encountered defects and deformations” [0002] adds new definitions to the specification that were not previously present;
- b. “In the text below...the print image into a digital image” [0007] adds new definitions to the specification that were not previously present;
- c. “(digital image formed...to a printer for printing)” [0008] adds a new definition to the specification that was not previously present;
- d. “The descriptors...after application of them to said filtered digital image” [0008] adds a new definition to the specification that was not previously present;
- e. “(designed to compute salient features/descriptors of the digital image)” [0009] adds a new concept of “salient features/descriptors;”
- f. “data stores 21 and 32 communicating with controller 13 for the purpose of storing characterizing information produced by controller 13” [0024] the amendment adds a the storage of characterizing information;

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- g. “Fig. 3A shows...black pixels is missing” [0027] as noted above, the defects shown were not necessarily present in the previous disclosure.
 - 10. Applicant is required to cancel the new matter in the reply to this Office Action.
 - 11. The disclosure is objected to because of the following informalities:
 - h. In paragraph [0024], as amended, the sentence, “Thus, data store 21 stores a plurality (inventory) characterizing algorithms, as will be described below...” does not make grammatical sense. The addition of the word “of” before “characterizing” would make the sentence grammatically correct.
 - i. In paragraph [0029], as amended, it is indicated that the first line in Fig. 4 reads “Danny A. Lellis.” Upon review of the figure, the "s" appears to have been a typo in the specification.
 - j. In paragraph [0036], as amended, the addition of “and at step 70.” does not make sense. It does not say what is done at step 70 and it adds a period (".") that is not needed.
 - k. In paragraph [0037], as amended, the first sentence recites, “And at step 70 applies the ith characterizing algorithm....” This sentence lacks a subject. Who or what is applying the algorithm is not shown. From the context in the surrounding sentences, it appears that the controller 13 may be the intended subject.
- Appropriate correction is required.

Claim Objections

12. Claims 2-5 and 13-16 objected to because of the following informalities: The phrase “print/scan” is still used. The Examiner has interpreted it to be “print or scan” as Applicants indicated that was the intent (Remarks, Page 26, Paragraph 5). Appropriate correction is required

13. Claim 4 is objected to because of the following informality: The phrase “simulating simulate blots” is believed to be a typographical error. The Examiner believes this should have simply read “simulating blots” as there is no support in the claims or the specification for simulating a simulation, as the language implies.

Claim Rejections - 35 USC § 112 1st Paragraph

14. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claims 1-11 rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

16. The original disclosure does not show “determining uniqueness of said indicia using information obtained from step f” as recited in claim 1. Moreover, the words “unique” and “uniqueness” could not be found in the original disclosure.

Claim Rejections - 35 USC § 112 2nd Paragraph

17. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

18. Claims 1-11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

l. The word "uniqueness" in step g of claim 1 is considered indefinite. Printed material can be unique in multiple ways, such as: format, data, color, or position. As there is no indication what makes an indicia unique in the claim or specification, one of ordinary skill in the art would not understand what kind of determination is needed in this step. This limitation has been interpreted by the Examiner to be a comparison between the filtered and unfiltered image when applying the prior art.

m. In step f, claim 1 recites, "scanning said indicia." There is no recitation of printing the indicia or it being on a medium where it can be scanned from. Therefore, one of ordinary skill would not understand what has to be performed in order to infringe this claim. For purposes of prior art, scanning in this instance, has been interpreted as going through the data or browsing.

Claim Rejections - 35 USC § 101

19. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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20. Claims 1-5 and 7-11 are rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

21. Based on Supreme Court precedent¹ and recent Federal Circuit decisions, a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing.² If neither of these requirements is met by the claim(s), the method is not a patent eligible process under 35 U.S.C. § 101.

22. In this particular case, condition (1) is not met because there is no device or apparatus claimed that performs the process or method steps recited; and condition (2) is not met because there is no article or material being transformed by the method or process claimed. The Applicant(s) are encouraged to amend the claims to positively identify the device(s) or apparatus performing the method steps in order to have this rejection withdrawn.

Claim Rejections - 35 USC § 102

23. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

24. Claim 1 as best understood is rejected under 35 U.S.C. §102(b) as being anticipated by Bradford (US 5,805,747).

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

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25. As to claim 1,

A method for generating characterizing information including a plurality of descriptors for a selected block of printed material, said method comprising the steps of:

- a) scanning (by “Optical Scanning Unit,” 102) said printed material **101**;
 - b) applying a predetermined set of algorithms (“string matching algorithms,” C 13, LL 24-27) for computing characterizing information (“positional data,” C13, LL 22-24);
 - c) determining estimates of robustness for each algorithm in said predetermined set of algorithms (“confidence indicators,” C9, LL 44-55);
 - d) selecting, as a function of said estimates, a combination of descriptors generated by a corresponding combination of said algorithms as said characterizing information (“optimum alignment,” C13, LL 24-27);
 - e) including said characterizing information into a secure indicia (“stored into memory 114,” Id.);
 - f) scanning said indicia and said printed block (“character-by-character,” C9, LL 44-55);
- and
- g) determining uniqueness of said indicia using information obtained from step f (resulting in “output indicators,” Id.) .

² The Supreme Court recognized that this test is not necessarily fixed or permanent and may evolve with technological advances. *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972).

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 2-6, 10, and 11, as under stood by the Examiner, are rejected under 35 U.S.C. §103(a) as being unpatentable over Bradford in view of Gatto et al. (US 6,344,906) (“Gatto”).

28. Bradford shows all of the elements of claim 1 and further shows the comparing of original descriptors, from the pristine image, to those measured by different algorithms (Figure 10) (Figures 7A-1 thru 9B-3 show a plurality of sets of descriptors from different algorithms).

29. Bradford does not show the use of filters to operate on the scanned images.

30. However, Gatto shows the use of a plurality of filters during the scanning process (Figure 8). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Bradford to add the filtering of Gatto in order to produce images that can be operated on by the algorithms more easily.

31. Claims 7-9 and 12-20, as under stood by the Examiner, are rejected under 35 U.S.C. §103(a) as being unpatentable over Bradford and Gatto as applied to claims 2-6, 10, and 11 above, and further in view of Montgomery et al. (US 2003/0101148) (“Montgomery”).

32. Bradford and Gatto disclose as discussed above, but do not expressly show that the object is a mail piece and the block of printed material represents an address. Nor do they show the use of an encrypted mail indicium.

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33. However, Montgomery shows the use of OCR (Paragraph 0140) on a mail piece **200** with a label containing an address. The mail piece further contains an encrypted indicium (Figure 19). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the teachings of Bradford to process mail as shown by Montgomery, in order to provide for higher reliability in mail processing.

Double Patenting

34. Claim 12 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/719,050.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the only differences in the subject matter between claim 1 of the '050 application and claim 12 of the instant application are the statutory class and the use of cryptographic authentication in claim 1.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. However, the Examiner notes that the '050 application has been allowed.

35. Claim 12 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,424,458. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the patent includes additional limitations not found in claim 12 of the instant application. Therefore, claim 1 is viewed as the species to the genus in claim 12.

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36. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/736,268.

Although the conflicting claims are not identical, they are not patentably distinct from each other because steps e, f, and g are shown in the Bradford which also shows steps a-d of claim 1 in the '268 application. Therefore, claim 1 of the instant application would be obvious over claim 1 in the '268 application in view of Bradford.

37. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Definitions

38. To the extent that the Examiner's interpretations are in dispute with Applicants' interpretations, the Examiner hereby adopts the following definitions—under the broadest reasonable interpretation standard—in all his claim interpretations.³ Moreover, while the following list is provided in accordance with *In re Morris* (127F.3d 1048, 44 USPQ2d 1023 (Fed. Cir 1997)), the definitions are a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

Can: “1...f : be inherently able or designed to.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

³ While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

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For: “1 a -- used as a function word to indicate purpose... b -- used as a function word to indicate an intended goal” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Indicate: “1 c : to demonstrate or suggest the necessity or advisability of.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

To: “2a -- used as a function word to indicate purpose, intention, tendency, result, or end.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response to Arguments

39. Applicants' arguments filed 1 July 2008 have been fully considered but they are not persuasive.

40. Applicants argue:

"Claims 2-5 and 13-16 have been objected to by the Examiner because of certain information. The phrase "print/scan" has been replaced with the phrase "print or scan" to overcome the objection" (Remarks, Page 26, Paragraph 5).

41. Examiner's response:

Claims: 2 (line 4), 4 (line 4), 13 (line 4), and 15 (line 4) still contain the phrase “print/scan.” Therefore the objection has been maintained.

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42. Applicants argue:

“Claim 4 has been amended by correcting the typographical error” (Remarks, Page 26, Paragraph 7).

43. Examiner's response:

Claim 4 still recites “simulating simulate blots.” Therefore the objection is maintained.

44. Applicants argue:

“Bradford does not disclose or anticipate steps B, C, D, E, F, and G of claim 1 as amended” (Remarks, Page 28, Paragraph 1).

45. Examiner's response:

The Examiner has provided citations to pertinent sections of Bradford showing the limitations as amended.

46. Applicants argue:

“Bradford does not teach how to modify the OCR engine to achieve a high confidence level” (Remarks, Page 28, Paragraph 3).

47. Examiner's response:

Claim 1 does not recite "modifying the OCR engine to achieve a high confidence level."

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48. Applicants argue:

“Gatto describes different image enhancement techniques Bradford and/or Gatto does not disclose or anticipate a filter designed to degrade the image and determine the robustness of the descriptors” (Remarks, Page 29, Paragraph 3).

49. Examiner's response:

Gatto’s intent for the various filters is to clean up an image. However, if the filters are given different control inputs they can result in the same phenomena they were created to prevent. For example, Anti-Skew **41** is intended to remove the skew. What it actually does is implement a skew in the opposite direction. If done to improve the image, the amount of skew is equal magnitude to the skew present, but in the opposite direction. Conversely, if the Anti-Skew filter were applied to an image that is correct, it can be used to degrade the image. Similarly, down sampling **53** and dithering **54** can be used to create a smudged appearance. Down sampling alone can also result in a pixilated appearance similar to a scanner sensor that is not working properly.

50. Applicants argue:

“Gatto does not disclose how to use image filters to access the robustness of various image characterizing descriptors” (Remarks, Page 30, Paragraph 2).

51. Examiner's response:

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Gatto has not been relied upon for this function. Moreover, Applicant has not pointed to particular claim language for this functionality. The Examiner looked over claims 2-6, 10, and 11 but could not find claim language that would be interpreted in this manner. Therefore, this argument is considered to be to an unclaimed function and therefore not persuasive.

52. Applicants argue:

“The art cited by the Examiner also does not disclose or anticipate paragraphs b, c, and d of claim 12 and those claims dependent thereon” (Remarks, Page 31, Paragraph 3).

53. Examiner's response:

First, the Examiner notes that claim 12 is an apparatus claim. Therefore, interpretation according to paragraph 34 of the previous action is proper. To summarize the Examiner's position, the patentable features in an apparatus must come from its structure. Claim 12 recites a large quantity of functional material. While functional limitations are permissible, they are given less weight than structural limitations.

Second, many of the functional limitations are intended use. "Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim: (A) statements of intended use or field of use, (B) “adapted to” or “adapted for” clauses, (C) “wherein” clauses, or (D) “whereby” clauses” (emphasis in original) (MPEP 2106). The words “for” and “to” are often used in setting out the intended use. For example, step c recites “a

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communications link for receiving other information from another information source, and communicating with said printer, for; c1)...c2)...and c3)..." (emphasis added). Also, step d is prefaced with "whereby" and only recites results.

Third, related to the second point, the use of the word "can" implies that something is optional. For example, in step d, "said indicium can be verified" (emphasis added). See the quoted section of MPEP 2106 above.

In view of these 3 points, the structural elements that must be present for limitations b-d of claim 12 are: a processor, software performing b1-b3, and a meter with a communications link. Although inherent in all of them, Gatto expressly shows a processor ("DSP" (Digital Signal Processor), 59). Software performing b1-b3 has been shown in reference to claim 1 as steps c-e. and Montgomery shows a meter [0090] with a communication link **418** [0091].

54. Applicants argue:

In regards to the provisional double patenting, Applicants cite the number of words in the claims as evidence of different subject matter (Remarks, Page 31, Paragraphs 4-5).

55. Examiner's response:

The number of words has no bearing on the subject matter of the claims. Describing the same thing in a different way does not change the thing being described. Therefore, the Examiner maintains his position that if the other claim were issued, that a judicially created obvious type double patenting rejection would be proper. As both applications are still pending, Applicants are encouraged to amend their claims so they are not obvious over each other.

56. Applicants argue:

“Claim 1 of Application no. 10/736,268 has no steps e, f and g as amended claim 1 of this application has” (Remarks, Paragraph spanning Pages 31 and 32).

57. Examiner's response:

The Examiner notes that steps e, f, and g are shown in the Bradford which also shows steps a-d of claim 1 in the '268 application. Therefore, claim 1 of the instant application would be obvious over claim 1 in the '268 application in view of Bradford.

Conclusion

58. Applicants' amendment filed July 1, 2008 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

59. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

60. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Murdough whose telephone number is (571)270-3270.

The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

61. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

62. Because this application is now final, Applicants are reminded of the USPTO's after final practice as discussed in MPEP §714.12 and §714.13 and that entry of amendments after final is *not* a matter of right. "The refusal of an examiner to enter an amendment after final rejection of claims is a matter of discretion." *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1529 (Fed. Cir. 2002) (citations omitted). Furthermore, suggestions or examples of claim language provided by the Examiner are just that—suggestions or examples—and do not constitute a formal requirement mandated by the Examiner. Unless stated otherwise by an express indication that a claim is "allowed," exemplary claim language provided by the Examiner to overcome a particular rejection or to change claim interpretation has *not been addressed* with respect to other aspects of patentability (*e.g.* §101 patentable subject matter, §112 1st paragraph written description and enablement, §112 2nd paragraph indefiniteness, and §102 and §103 prior art). Therefore, any claim amendment submitted under 37 C.F.R. §1.116 that incorporates an Examiner suggestion or example or simply changes claim interpretation will nevertheless require further consideration and/or search and a patentability determination as noted above.

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63. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621